IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

1. S.B. Civil Writ Petition No.2686/07
Ram Singh Vs. State of Raj. & Ors.

2. S.B. Civil Writ Petition No.2700/07
Radhey Shyam & Ors. Vs. State of Raj. & Ors.

3. S.B. Civil Writ Petition No.2973/07
Balchand & Ors. Vs. State of Raj. & Ors.

29.5.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri D.S. Jadoun for petitioners.
Shri Harshvardhan Nandwana, Deputy Government Advocate for State.

Heard learned counsel for the parties.

These writ petitions have been filed by petitioners who are all residents of Village Gadari (Dev Nagar), Tehsil Jalarapatan, Distt. Jhalawar with the prayer that the order dated 2.4.2007

passed by Tehsildar Jhalarapatan directing them to remove their encroachments from the lands of khasra no.571 be quashed and set aside.

Learned counsel for the petitioners argued that the aforesaid land was allotted vide patta issued on 24.11.1975 and the aforesaid order was passed on the premise that the land was pasture land whereas the fact is that his nature is changed to that of urban area. The petitioners therefore cannot be removed from the aforesaid land. As would be evident from pleadings one of the argument raised in support of the petition that the petitioners are being asked to vacate the aforesaid land because other persons are to be rehabilitated in that land on which they

are having possession and the basis of rehabilitation of those persons is that their houses are coming in the catchment area of the Kanwada Dam.

The writ petition has been opposed by learned Deputy Government Advocate Shri Harshvardhan Nandwana who has filed the reply in all the petition. In the reply to writ petition No.2686/07 it has been submitted that the land in dispute was charagah land and that the Gram Panchayat had no authority to make allotment of such land in favour of the petitioners. The Tehsildar initiated proceedings against the petitioners under Section 91 of the Land Revenue Act, 1956 and after the notices was served on the petitioners on 17.11.05, they appeared before him on 30.11.2005 and thereafter

the impugned order has been passed. The land in dispute is required for rehabilitation of 154 families of Village Gadari whose houses have come into the land of the Kanwada Dam and who are required to be urgently shifted to that place. Assertion of the petitioners is that the nature of the land was converted from pasture to abadi and on that basis the allotment should be made by the Gram Panchayat has no basis because the allotments were made in 1975 whereas the nature of the land was converted by the Collector on 12.4.07. It has been submitted that the petitioners have submitted written application to District Collector, Jhalawar that if the petitioners are alloted alternative land for rehabilitation, they are prepared to

forgo their claim in so far as the land in dispute is concerned.

Learned Deputy Government Advocate submits that when the petitioners handover the possession of the disputed land, the respondents would consider their case for rehabilitation on an alternative land sympathetically.

In the facts of the case when it is found that the Gram Panchayat could not make allotment of the land in dispute to the petitioners in the year 1975 because it was a pasture land, the patta issued to them may not give any title in their favour. At the same time the fact is that petitioners are in possession of the land since 1975 and they claim to be in possession from much earlier period then 1975 and therefore if rehabilitation

of respondents from one Village is being made by dispossessing the petitioners, they as has been pointed out by learned Deputy Government Advocate may on the basis of application submitted by them be considered for rehabilitation elsewhere and in the event of their so doing, the petitioners shall be liable to vacate their possession on the disputed land.

With these observations, the writ petitions are disposed of.

(Mohammad Rafiq),J.

Rs/-